

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES – Prohibition & Excise Department – Allegation of violation of APCS (Conduct) Rules, 1964 against Sri Sk.Kareem, formerly P&E Head Constable, Nellore District (Retd.) - Confirmation of Provisional Decision to impose 30% (thirty percent only) cut in pension for a period of ten (10) years - Orders - Issued.

REVENUE (VIG.V) DEPARTMENT

G.O.Rt.No. 848.

Dated:11.06.2013.

Read the following:-

- 1) G.O. Ms. No.799, Revenue (Vig.V) Deptt., dt.01.08.2009.
- 2) G.O. Rt. No.1098, Revenue (Vig.V) Deptt., dt.01.08.2009.
- 3) Sri Sk. Kareem, P&E HC, WSD, dt.21.08.2009.
- 4) G.O. Rt. No.831, Revenue (Vig.V) Deptt., dt.11.06.2010.
- 5) The Jt. Commissioner, P&E (Enft.), O/o. the Director of Enforcement, A.P., Hyderabad File No.JC Peshi/III/Enquiry, dt.05.05.2011.
- 6) Memo No.50875/Vig.V(1)/2008-8, dt.21.05.2011.
- 7) Sri Sk. Kareem, P&E HC (Retd.) Explanation, dt.18.06.2011.
- 8) Govt. Memo No.50875/Vig.V(1)/2008-9, Dt.01.12.2011.
- 9) From Sri. Shaik Kareem, Prohibition & Excise Sub-Inspector (Retd.), dt.6.7.2012.
- 10) Govt. Letter No.50875/Vig.V(1)/2008-11, dated:26-09-2011
- 11) From the Secretary I/c, Andhra Pradesh Public Service Commission, A.P., Hyd., Letter No.1855/RT/3/2012, Dt:09.10.2012.

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ORDER:

In the reference 1st read above, Government have initiated common departmental proceedings against Sri Sk. Kareem, formerly Prohibition & Excise Head Constable, Enforcement Wing, Nellore along with five others alleging that while functioning as Head Constable during the period from 14.07.1994 to 26.09.2008 he has committed grave misconduct in as much as he and other staff by abusing their official position collected "Dasara Mamools" from Wine shops/Bars in Nellore District and kept the said mamools of Rs.2,10,260/- with him.

2. In the reference 2nd read above, Government have framed article of Charges against the Charged Officer i.e., Sri Shaik Kareem, formerly P&E Head Constable, Nellore District (Retd.) on the above allegation.

3. In the reference 3rd read above, the Charged Officer has submitted Written Statement of Defence to charges framed against him.

4. In the reference 4th read above, Government have appointed Joint Commissioner Prohibition & Excise (Enforcement), O/o the Commissioner, Prohibition & Excise, A.P., Hyderabad as Inquiring Authority to enquire into the charges framed against him.

5. In the reference 5th read above, the Inquiring Authority has submitted Inquiry Report stating that the Charge framed against Sri Sk. Kareem, is held proved.

6. In the reference 6th read above, while communicating the Enquiry Report, Sri Sk. Kareem was directed to submit his explanation, if any, within 15 days from the date of receipt of the Memo. Accordingly, in the reference 7th cited, he has submitted his explanation requesting the Government to drop further action against him and return the seized amount.

(P.T.O)

7. Government, after careful examination matter, have provisionally decided to impose a punishment of 30% cut in pension for a period of 10 years against Sri Sk. Kareem, besides forfeiture of the seized amount of Rs.2,10,260/-, as the Charge framed against him was held proved during the enquiry.

8. Therefore, in the reference 8th read above, a Show Cause Notice on the above proposed punishment was issued to the Charged Officer with a direction to submit his explanation, if any, within 15 days from the date of receipt of this Memo.

9. Accordingly in the reference 9th read above he has submitted his explanation wherein among giving other information he has stated that "his eldest son borrowed the money from Sri Kanupura Sudhakar Reddy (D.W.5) and Anchanala Venkateshwarlu (D.W. 6) under promissory notes. The enquiry ought to have at least examined them and recorded statements and verified to elicit truth by the ACB Officials. Hence, failed to take up any further investigation / prosecution to prove its case beyond all reasonable doubts." Finally he has requested to drop further action against him and return the seized amount of Rs.2,10,260/- stating that during the enquiry the prosecution failed to prove its case beyond all reasonable doubts at any corner and not substantiated the allegations at any level that he has collected the DASARA mamools.

10. The Enquiry Authority in its report submitted that "the ACB Officials asked the son and his mother to produce Dasara mamool collected by his father failing which he will be arrested and jailed. The money of about Rs.2,00,000/- was produced. He stated that the money was borrowed by him from his friends Sri Sudhakar Reddy (D.W.5) and Anchanala Venkateshwarlu (D.W. 6) executing promissory notes for his business expenses on account of Ramzan and Dasara. During cross examination to a question as to why the ACB Officials were not informed of his borrowings, he stated that he was in tension. In their statements, Sri Kanupura Sudhakar Reddy (D.W.5) and Anchanala Venkateshwarlu (D.W. 6) have confirmed having given loan of Rs.1.00 lakh each to Fareed Ahmed, S/o Sk. Kareem on interest @ Rs.1/- per hundred per month from their own sources of income. Defence also produced three licensees namely (1) Dega Babu Rao (D.W.11) (2) M. Ravi Kumar (D.W.12) and (3) Surendra Reddy (D.W.13) who denied having paid any mamools to the Charged Government Servants. The above contents have disputed by Defence stating that it was completely at variance with what was actually stated. The fact remains that the entire proceedings were recorded in the presence of mediators and CGS-2 and his son (D.W.4) who were present have not said anything about the money borrowed from family friends for business expansion. During cross examination, DW4 stated that he was in tension and therefore could not say that the money was borrowed from his friends. Apart from that, there was also some corroborative evidence as it could be seen from what was stated by Sri Ch. Shankar Rao (CGS-1 and DW1) in the proceedings that were conducted at his house (Ex-P1) wherein he stated that Dasara mamools are being collected by Sk. Kareem and the amount was kept with him only. As per the pre-recorded statements of three drivers (PW3, 4 and 5) whose vehicles were engaged for the excise staff to move in the District for collection of Dasara Mamools. Sri Shankar Rao (PW1) denied having made any such statement to the ACB Inspector as recorded in the mediators report also the drivers failed to identify the persons who engaged their vehicles. The three licenses (DW11 to 13) also stated no money was paid to enforcement staff. While much can be said by both sides in support their contentions, the fact is that a statement made before the mediators cannot be brushed aside just because certain private witnesses deposed against it. Therefore, in the light of the evidence produced by both the parties, it can be concluded that the amount (Rs.2,10,260/-) found at the house of Sk. Kareem was collected from licenses towards "Dasara mamool". Hence, the charge is substantiated. On the basis of documentary and oral evidence adduced the charge is proved against Sri Sk. Kareem."

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11. Government, after careful examination of the matter in detail and in consultation with the A.P.P.S.C. have decided to confirm the provisional decision taken in the matter i.e., to impose a punishment of thirty percent (30%) cut in pension for a period of ten (10) years against Sri Sk. Kareem, Prohibition & Excise Head Constable (Retd.), besides forfeiture of the seized amount of Rs.2,10,260/-, as the Charge framed against him was substantially held proved during the enquiry and he has not submitted any new valid ground to consider his explanation.

12. The Commissioner of Prohibition & Excise, A.P., Hyderabad / the Deputy Commissioner of Prohibition & Excise, Hyderabad Division shall take further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M.G.GOPAL
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

To

The Commissioner of Prohibition & Excise, A.P., Hyderabad.

(with a request to send the served copy)

The Deputy Commissioner of Prohibition & Excise, Nellore Division.

Sri Sri. Shaik Kareem, formerly P&E Head Constable,

Enforcement Wing, Nellore District (Retd.)

(Through): The Commissioner of Prohibition & Excise,
A.P., Hyderabad.(with a copy of the opinion of the APPSC)

Copy to :-

The Director General, Anti Corruption Bureau, A.P., Hyderabad.

The Secretary, A.P. Vigilance Commission, Secretariat, Hyderabad.

The Secretary, A.P.P.S.C, Nampally, Hyderabad.

(w.r.t. their letters dt.04.02.2013 & 06.05.2013)

The District Treasury Officer, Mahabubnagar District.

The Director of Treasuries & Accounts, A.P., Hyderabad.

The Accountant General, A.P., Hyderabad.

File / SF/ SCs.

//FORWARDED :: BY ORDER//

SECTION OFFICER